

Lindsay Thane, MT Bar #50668929  
Aukjen Ingraham, *Admitted Pro Hac Vice*  
SCHWABE, WILLIAMSON & WYATT, P.C.  
1211 SW 5th Avenue, Suite 1900  
Portland, OR 97204  
Telephone: 503-796-2059  
Facsimile: 503-796-2900  
Email: lthane@schwabe.com  
Email: aingraham@schwabe.com  
*Attorneys for Navajo Transitional Energy Company*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

WILDEARTH GUARDIANS and  
MONTANA ENVIRONMENTAL  
INFORMATION CENTER,

Plaintiffs,

vs.

DEB HAALAND, in her official  
capacity of Secretary of the Interior,  
*et al.*,

Federal Defendants,

and

SPRING CREEK COAL, LLC and  
NAVAJO TRANSITIONAL  
ENERGY COMPANY,

Intervenor-Defendants.

Case No. CV-17-80-BLG-SPW-TJC

**BRIEF IN SUPPORT OF MOTION  
FOR LEAVE TO REPLY TO  
PLAINTIFFS' RESPONSE TO  
FEDERAL DEFENDANTS'  
MOTION FOR DEADLINE  
EXTENSION**

Intervenor-Defendant Navajo Transitional Energy Company ("NTEC")  
submits this Brief in Support of Motion for Leave to Reply to Plaintiffs' Response

to Federal Defendants' Motion for Deadline Extension ("Motion for Leave to Reply") in accordance with Local Rule 7.1(d)(1)(A). Plaintiffs oppose NTEC's Motion for Leave to Reply.

NTEC submits its Motion for Leave to Reply because Plaintiffs' Response to Federal Defendants' Motion for Deadline Extension attempts to introduce new evidence through six new declarations from purported expert and lay witnesses. NTEC requests leave to reply so that it may inform the Court of its position regarding the evidence Plaintiffs attempt to introduce and to protect its interests in this case. NTEC seeks to address the impropriety of Plaintiffs' attempt to introduce new evidence pertaining to vacatur, an issue on which this Court has already issued a final decision. NTEC also requests leave to reply so that it may identify for the Court the initial concerns it has identified regarding the reliability of Plaintiffs' proffered evidence.

Plaintiffs' Response again requests an order of immediate vacatur, which would cause immense economic harm to Montana, Big Horn County, NTEC and others, as well as environmental harm. This Court's decisions directly affect NTEC and without the opportunity to reply to Plaintiffs' Response to Federal Defendants'

Motion for Deadline Extension, NTEC's interests are not protected. Therefore, NTEC requests leave to reply.

Dated this 2<sup>nd</sup> day of September, 2021.

*s/ Lindsay Thane*

Lindsay Thane, MT Bar #50668929  
Aukjen Ingraham, *Admitted Pro Hac Vice*  
SCHWABE, WILLIAMSON & WYATT, P.C.  
1211 SW 5th Avenue, Suite 1900  
Portland, OR 97204

*Attorneys for Intervenor Defendant Navajo  
Transitional Energy Company*

### **CERTIFICATE OF COMPLIANCE**

The undersigned, Lindsay Thane, certifies that this Brief complies with the requirements of Local Rule 7.1(d)(2). The lines in this document are double spaced, except for footnotes and quoted and indented material, and the document is proportionately spaced with Times New Roman Font typeface consisting of fourteen characters per inch. The total word count is 232 words, excluding the caption, certificates of compliance and service. The undersigned relies on the word count of the word processing system used to prepare this document.

Dated this 2<sup>nd</sup> day of September, 2021.

*s/ Lindsay Thane*  
Lindsay Thane, MT Bar #50668929

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of September, 2021, I electronically filed the foregoing BRIEF IN SUPPORT OF MOTION FOR LEAVE TO REPLY TO PLAINTIFFS' RESPONSE TO FEDERAL DEFENDANTS' MOTION FOR DEADLINE EXTENSION with the clerk of the court for the United States District Court for the District of Montana using the CM/ECF system.

s/ Lindsay Thane  
Lindsay Thane, MT Bar #50668929  
*Attorney for Intervenor Defendant*  
*Navajo Transitional Energy Company*